

REMARKS

Claims 1-66 are pending in the application.

Claims 1-66 have been rejected.

Formal Matters

Applicants are grateful for the interview granted by Examiner Bates and held between Examiner Bates and Applicants' representative Shawn Doman on April 8, 2008. The topic of discussion was interpretation of Sultan (U.S. Patent No. 7,102,997) with regard to the rejection of Applicants' independent claims.

Rejection of Claims under 35 U.S.C. § 103(a)

Claims 1-66 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication 2003/0163593 listing Knightly as the inventor ("Knightly") in view of U.S. Patent 7,102,997 issued to Sultan ("Sultan"). Applicants respectfully traverse this rejection.

Applicants respectfully submit that the arguments presented below with respect to independent claim 1 are generally applicable to claims 1-66, as independent claims 18, 35, 46, and 54 recite similar features to those of claim 1, and claims 2-17, 19-34, 36-45, 47-53, and 55-66 depend from respective independent claims.

Exemplary claim 1 provides the following limitations:

receiving information indicating a need to change an amount of data being transmitted through a first media access control (MAC) device to a client of the first MAC device, wherein the information is received from the client when the client determines that the client is receiving data at a rate exceeding a set threshold.

The Office Action states that Knightly fails to disclose "the information is received from the client when the client determines that the client is receiving data at a rate exceeding a set threshold." Office Action, p.3. The Office Action cites to Sultan as purportedly supplying this missing disclosure.

The cited passages of Sultan disclose “a ‘leaky bucket’ mechanism used at each node 12 for monitoring and controlling the use of an outgoing ring segment....” Sultan 4:38-40. (emphasis supplied) Sultan’s leaky bucket mechanism (shown in FIG. 3) includes packet buffers for storing outgoing packets, or packets transmitted from the clients of a closed user group (CUG) to the network. Packets are put into the bucket when members of a CUG (which may be scattered among various nodes of the ring) attempt to transmit packets onto a particular outgoing link. Sultan 4:42-47. Packets are removed from the bucket and transmitted onto the link according to a predetermined rate according to the specified aggregate transmission rate for the CUG. Sultan 4:54-55. The bucket (buffers) “fills” when more packets are put into the bucket than are removed. *See* Sultan 4:42-47. When the bucket fills, one of the CUG members is sent a throttle message indicating that the member should decrease the rate at which the member transmits packets into the network. Sultan 5:1-5.

Applicants respectfully submit that this leaky bucket mechanism does not disclose a client determining when the client is receiving data at a rate exceeding a threshold, as claimed. In fact, the leaky bucket mechanism has nothing to do with the rate at which a client receives data at all. Instead, the cited sections of Sultan disclose monitoring a node having a set of buffers for storing outgoing data transmitted by a group of clients. If the mechanism of Sultan detects that the group transmits more outgoing packets to the buffers than the buffers are authorized to source onto the network, a throttle message is transmitted to one of the clients. At best, Sultan provides the opposite of the claimed information provided by a client that has determined that the client is receiving data at a rate exceeding a threshold.

Accordingly, Applicants submit that the combination of Knightly and Sultan fails to provide disclosure of all the limitations of independent claims 1, 18, 35, 46, and 54 and all claims depending therefrom and that these claims are in condition for allowance. Applicants therefore respectfully request the Examiner’s reconsideration and withdrawal of the rejections to these claims and an indication of allowability of same.

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5092.

If any extensions of time under 37 C.F.R. § 1.136(a) are required in order for this submission to be considered timely, Applicant hereby petitions for such extensions. Applicant also hereby authorizes that any fees due for such extensions or any other fee associated with this submission, as specified in 37 C.F.R. § 1.16 or § 1.17, be charged to deposit account 502306.

Respectfully submitted,



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